IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE THIRTY FIRST DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 19384 of 2003

Between:

Sri Navadurga Wines, Saradhi, rep., by its Licensee K.Krishnam Naidu, Srikakulam District.

..... PETITIONER

AND

1 Prohibition and Excise Superintendent, Srikakulam.
2 Inspector, Proh., & Excise, Rajam, Srikakulam District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction more particularly in the nature of writ of mandamus declaring the impugned notice of the 2nd respondent dt.22-8-2003 as illegal, null, mid and against the principles of natural justice

Counsel for the Petitioner:MR.M.S.PRASAD

Counsel for the Respondents: GP for Prohibition and Excise.

The Court made the following :

ORDER:-

Heard both the learned counsel and at their request, the writ petition itself is taken up for disposal.

Petitioner herein who is holding license in Form I.C.24 under A.P.Excise Act and the Rules made there under, filed this writ petition, inter alia, seeking writ of Mandamus declaring the impugned notice dated 29-3-2003 where under respondents called upon the petitioner to immediately shift the shop in view of the existence of educational institution nearby it, as illegal and bad.

The case of the petitioner is that having granted license and the same having been subsequently renewed extending the period of license up to the end of March, 2005, the respondents cannot take step calling upon the petitioner to shift the business. Learned counsel for the petitioner pointed out that the shop was in existence since ling time and the gate of the educational institution was shifted from one side to another whereby the petitioner's shop is existing and therefore, the petitioner was asked to shift his business. Hence this writ petition.

Learned Government Pleader for Excise submitted that in view of the fact that the educational institution is existing, license cannot be granted and the petitioner has no right to make any claim as such. However, continuance of the shop would affect the students in educational institution. Hence no indulgence need be shown to the petitioner.

Considering the submissions made on either side and on perusal of the material on record, the fact remains that the petitioner was granted license and the same was subsequently renewed, the period of which expires by March, 2005. Even at the time of granting license or at the time of renewal, educational institution was in existence and at no point of time, objections have been taken either by the department or by

anybody on behalf of the institution. It is only on the basis of representation appears to have been made by local people, impugned order has been passed. Having granted license in spite of existence of educational institution, it is not open to the respondents to call upon the petitioner to shift or otherwise close down the business. No doubt the objection is valid and would affect the student community in particular, local residents in general. However, the fact that license was granted to the petitioner cannot also be ignored in spite of existence of educational institution.

Accordingly, the writ petition is allowed and the impugned order is set aside. It is made clear that soon after expiry of the period of license of the petitioner by 31-3-2005, petitioner shall not have its renewal nor can make any representation in regard to continuance of license in the same premises. No costs

31—08—2004.

Stv/-

To

1 Prohibition and Excise Superintendent, Srikakulam.
2 Inspector, Proh., & Excise, Rajam, Srikakulam District.

3 2CCs to the Government Pleader for Prohibition and Excise, High Court Buildings, Hyderabad. (OUT).

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